

(i) the total risk-weighted assets of the financial company, as determined under the risk-based capital rules applicable to bank holding companies, as adjusted to reflect exposures that are deducted from regulatory capital; less

(ii) the total regulatory capital of the financial company under the risk-based capital rules applicable to bank holding companies;

(B) with respect to a foreign-based financial company—

(i) the total risk-weighted assets of the United States operations of the financial company, as determined under the applicable risk-based capital rules, as adjusted to reflect exposures that are deducted from regulatory capital; less

(ii) the total regulatory capital of the United States operations of the financial company, as determined under the applicable risk-based capital rules; and

(C) with respect to an insurance company or other nonbank financial company supervised by the Board, such assets of the company as the Board shall specify by rule, in order to provide for consistent and equitable treatment of such companies.

(b) Concentration limit

Subject to the recommendations by the Council under subsection (e), a financial company may not merge or consolidate with, acquire all or substantially all of the assets of, or otherwise acquire control of, another company, if the total consolidated liabilities of the acquiring financial company upon consummation of the transaction would exceed 10 percent of the aggregate consolidated liabilities of all financial companies at the end of the calendar year preceding the transaction.

(c) Exception to concentration limit

With the prior written consent of the Board, the concentration limit under subsection (b) shall not apply to an acquisition—

(1) of a bank in default or in danger of default;

(2) with respect to which assistance is provided by the Federal Deposit Insurance Corporation under section 1823(c) of this title; or

(3) that would result only in a de minimis increase in the liabilities of the financial company.

(d) Rulemaking and guidance

The Board shall issue regulations implementing this section in accordance with the recommendations of the Council under subsection (e), including the definition of terms, as necessary. The Board may issue interpretations or guidance regarding the application of this section to an individual financial company or to financial companies in general.

(e) Council study and rulemaking

(1) Study and recommendations

Not later than 6 months after July 21, 2010, the Council shall—

(A) complete a study of the extent to which the concentration limit under this

section would affect financial stability, moral hazard in the financial system, the efficiency and competitiveness of United States financial firms and financial markets, and the cost and availability of credit and other financial services to households and businesses in the United States; and

(B) make recommendations regarding any modifications to the concentration limit that the Council determines would more effectively implement this section.

(2) Rulemaking

Not later than 9 months after the date of completion of the study under paragraph (1), and notwithstanding subsections (b) and (d), the Board shall issue final regulations implementing this section, which shall reflect any recommendations by the Council under paragraph (1)(B).

(May 9, 1956, ch. 240, §14, as added Pub. L. 111-203, title VI, §622, July 21, 2010, 124 Stat. 1632.)

REFERENCES IN TEXT

The Dodd-Frank Wall Street Reform and Consumer Protection Act, referred to in subsec. (a)(2)(E), is Pub. L. 111-203, July 21, 2010, 124 Stat. 1376. Title I of the Act, known as the Financial Stability Act of 2010, is classified principally to subchapter I (§5311 et seq.) of chapter 53 of this title. For complete classification of title I to the Code, see Short Title note set out under section 5301 of this title and Tables.

This chapter, referred to in subsec. (a)(2)(F), was in the original “this Act”, meaning act May 9, 1956, ch. 240, 70 Stat. 133, known as the Bank Holding Company Act of 1956, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of this title.

CHAPTER 18—BANK SERVICE COMPANIES

Sec.	
1861.	Short title and definitions.
1862.	Amount of investment in bank service company.
1863.	Permissible bank service company activities for depository institutions.
1864.	Permissible bank service company activities for other persons.
1865.	Prior approval for investments in bank service companies.
1866.	Services to nonstockholders or nonmembers.
1867.	Regulation and examination of bank service companies.

§ 1861. Short title and definitions

(a) Short title

This chapter may be cited as the “Bank Service Company Act”.

(b) Definitions

For the purpose of this chapter—

(1) the term “appropriate Federal banking agency” shall have the meaning provided in section 1813(q) of this title;

(2) the term “bank service company” means—

(A) any corporation—